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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,314	11/14/2001	Chang Gyu Kim	TJK/ 204	2335
26689	7590	11/14/2003	EXAMINER	
WILDMAN, HARROLD, ALLEN & DIXON				
225 WEST WACKER DRIVE				
CHICAGO, IL 60606				
			ART UNIT	PAPER NUMBER
			2823	

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/001,314

Applicant(s)

KIM ET AL.

Examiner

Neal Berezny

Art Unit

2823

--The MAILING DATE of this communication appears on the cover sheet with the corresponding address--

THE REPLY FILED 16 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY (check either a) or b))

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Advisory Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1-15

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☒ Other: Interview Summary attached


W. DAVID COLEMAN
PRIMARY EXAMINER

ADVISORY ACTION

1. Examiner notes that applicant has amended claims 1, 5, 6, 7, and 11-14, whereas applicant appears to assert that only claims 1 and 6 were amended. Examiner assumes applicant's assertion is merely a typographical error.

Response to Arguments

2. Applicant's arguments filed 10/18/03 have been fully considered but they are not persuasive. Applicant asserts that the claims are drawn to an etching process, whereas Inoue teaches a CMP process. Examiner would like to point out that a CMP process is a Chemical – Mechanical Polish, and therefore includes both a chemical etch and a mechanical polish. Therefore, the claims to do overcome Inoue, at least on those grounds.

3. Applicant also argues that Inoue teaches away from the combination with Huang because Inoue teaches a CMP method superior to etch back methods. Such an argument might have been persuasive, if the CMP and etch back methods were not so well known to be interchangeable processes. Inoue might be teaching a CMP superior to an etch back, but such a comparison also suggests anticipation. Given that both processes are extremely well known in the art and are often used as substitute processes depending on the design rules of the device being built, it would be obvious to a skilled artisan reading Inoue to also consider the etch back method as an alternative method of fabricating said device. A preferred method does not necessarily

support a teaching away assertion, especially if the concepts being combined are well known and obvious alternatives.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal Berezny whose telephone number is (703) 305-1481. The examiner can normally be reached on M-F 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Olik Chaudhuri can be reached on (703) 306-2794. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

NB
November 7, 2003